

§ 327.51

12 CFR Ch. III (1–1–08 Edition)

applies to insured depository institutions.

(b) *Purpose.* This subpart C of part 327 sets forth the rules for:

(1) The FDIC's annual determination of whether to declare a dividend and the aggregate amount of any dividend;

(2) The FDIC's determination of the amount of each insured depository institution's share of any declared dividend;

(3) The time and manner for the FDIC's payments of dividends; and

(4) An institution's appeal of the FDIC's determination of its dividend amount.

§ 327.51 Definitions.

For purposes of this subpart:

(a) *Board* has the same meaning as under subpart B of this part.

(b) *DIF* means the Deposit Insurance Fund.

(c) An *insured depository institution's 1996 assessment base ratio* means an institution's 1996 assessment base ratio as determined pursuant to § 327.33 of subpart B of this part, adjusted as necessary after the effective date of subpart B of this part to reflect subsequent transactions in which the institution succeeds to another institution's assessment base ratio, or a transfer of the assessment base ratio pursuant to § 327.34.

(d) *Predecessor*, when used in the context of insured depository institutions, refers to the institution merged with or into a resulting institution, consistent with the definition of "successor" in § 327.31.

§ 327.52 Annual dividend determination.

(a) On or before May 15th of each calendar year, beginning in 2007, the Board shall determine whether to declare a dividend based upon the reserve ratio of the DIF as of December 31st of the preceding year, and the amount of the dividend, if any.

(b) Except as provided in paragraph (d) of this section, if the reserve ratio of the DIF equals or exceeds 1.35 percent of estimated insured deposits and does not exceed 1.5 percent, the Board shall declare the amount that is equal to one-half of the amount in excess of the amount required to maintain the

reserve ratio at 1.35 percent as the aggregate dividend to be paid to insured depository institutions.

(c) If the reserve ratio of the DIF exceeds 1.5 percent of estimated insured deposits, except as provided in paragraph (d) of this section, the Board shall declare the amount in excess of the amount required to maintain the reserve ratio at 1.5 percent as the aggregate dividend to be paid to insured depository institutions and shall declare a dividend under paragraph (b) of this section.

(d)(1) The Board may suspend or limit a dividend otherwise required to be paid if the Board determines that:

(i) A significant risk of losses to the DIF exists over the next one-year period; and

(ii) It is likely that such losses will be sufficiently high as to justify the Board concluding that the reserve ratio should be allowed:

(A) To grow temporarily without requiring dividends when the reserve ratio is between 1.35 and 1.5 percent; or

(B) To exceed 1.5 percent.

(2) In making a determination under this paragraph, the Board shall consider:

(i) National and regional conditions and their impact on insured depository institutions;

(ii) Potential problems affecting insured depository institutions or a specific group or type of depository institution;

(iii) The degree to which the contingent liability of the FDIC for anticipated failures of insured institutions adequately addresses concerns over funding levels in the DIF; and

(iv) Any other factors that the Board may deem appropriate.

(3) Within 270 days of making a determination under this paragraph, the Board shall submit a report to the Committee on Financial Services and the Committee on Banking, Housing, and Urban Affairs, providing a detailed explanation of its determination, including a discussion of the factors considered.

(e) The Board shall annually review any determination to suspend or limit dividend payments and must either:

(1) Make a new finding justifying the renewal of the suspension or limitation